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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SIXTH APPELLATE DISTRICT

THE PEOPLE,

Plaintiff and Respondent,

v.

JESSE ANTHONY FLORES,

Defendant and Appellant.

H043646

(Monterey County
Super. Ct. Nos. SS131057A,
SS141657B)

I. INTRODUCTION

Defendant Jesse Anthony Flores resolved two gang-related cases in one negotiated disposition. In case No. SS131057A, defendant pleaded no contest to possession of a firearm by a felon (Pen. Code, § 29800, subd. (a)(1))¹ in exchange for a sentence of two years concurrent with the sentence in case No. SS141657B. In case No. SS141657B, defendant pleaded no contest to voluntary manslaughter (§ 192, subd. (a)), possession of a firearm by a felon (§ 29800, subd. (a)(1)), and street terrorism (§ 186.22, subd. (a)) and admitted all of the special allegations, in exchange for sentence of 20 years 8 months. The trial court sentenced defendant to the agreed upon total term of 20 years 8 months.

Defendant filed a timely notice of appeal, and we appointed counsel to represent him in this court. Appointed counsel has filed an opening brief that states the case and

¹ All further statutory references are to the Penal Code.

facts but raises no issue. We notified defendant of his right to submit written argument on his own behalf within 30 days. The 30-day period has elapsed and we have received no response from defendant.

Pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*) and *People v. Kelly* (2006) 40 Cal.4th 106 (*Kelly*), we have reviewed the entire record. Following the California Supreme Court's direction in *Kelly, supra*, at page 110, we provide "a brief description of the facts and procedural history of the case, the crimes of which the defendant was convicted, and the punishment imposed."

II. FACTUAL AND PROCEDURAL BACKGROUND

A. Case No. SS131057A

According to the probation report, on April 23, 2013, police officers were executing a search warrant on a person believed to be housing drugs and weapons for members of the Norteño street gang when they saw several suspects jump out of a second story window. A loaded .45-caliber Ruger handgun with fresh scuff marks was found near where two suspects had fled. Defendant, an active Norteño gang member, was caught in the same area. The .45-caliber Ruger handgun was later determined to have been stolen in a residential burglary.

The information filed in September 2013 in case No. SS131057A charged defendant with possession of a firearm by a felon (§ 29800, subd. (a)(1); count 1); receiving stolen property (§ 496, subd. (a); count 3); and street terrorism (§ 186.22, subd. (a); count 4). It was also alleged that defendant had committed the offenses for the benefit of a criminal street gang (§ 186.22, subd. (b)(1)(A)).

B. Case No. SS141657B

According to the preliminary hearing testimony, on October 11, 2013, an officer with the Salinas Police Department responded to a crime scene where he found the adult male victim lying on the ground next to a car with obvious gunshot wounds to the head. The officer was advised that first responders had removed the victim from a car in order

to treat him. Nine-millimeter shell casings were found near the victim, who had a tattoo indicating he was a Sureño gang member.

A small SUV with custom purple paint color was identified as a suspect vehicle through police investigation, which included surveillance video showing the vehicle in the vicinity of the crime scene within minutes of the shooting. A witness reported seeing a purple vehicle stop next to a parked car, followed by a man getting out of the purple vehicle and shooting a man in the parked car.

The purple SUV belonged to a college student who had loaned it to defendant and another man on October 11, 2013, just before the time of the shooting. Defendant returned the purple SUV to its owner about 55 minutes later. The next day, the owner received a text message from defendant stating that he wanted to get the purple SUV painted “ASAP.”

During the police investigation defendant was placed in a transport van with a confidential informant and co-defendant Elijah Hernandez, who had been with defendant in the purple SUV at the time of the shooting. Police officers were able to listen to their conversation in the transport van. Hernandez said that defendant was the driver of the purple SUV when Hernandez got out of the SUV and shot the victim in the face. However, the confidential informant had previously told the investigating officer that defendant claimed credit for the shooting. Cell phone evidence placed defendant’s cell phone in the vicinity of the shooting at the time it occurred.

A police officer who was stipulated to be an expert in the investigation of gang-related crimes testified that defendant had tattoos indicating that he was a member of the Norteño criminal street gang and that defendant was acting on behalf of the Norteño gang at the time of the shooting.

The information filed in September 2015 in case No. SS141657B charged defendant with premeditated murder (§ 187, subd. (a); count 1); possession of a firearm by a felon (§ 29800, subd. (a)(1); count 2); and street terrorism (§ 186.22, subd. (a);

count 4). It was alleged that as to the murder, defendant personally and intentionally discharged a firearm causing death (§ 12022.53, subd. (d) & (e)(1)) and committed the offense for the benefit of, at the direction of, or in association with a criminal street gang (§ 186.22, subd. (b)(1) & (b)(5)). It was further alleged that the offense of possession of a firearm by a felon was committed for the benefit of a criminal street gang (§ 186.22, subd. (b)(1)(A)). The special allegations also stated that defendant had one prior strike conviction (§ 1170.12, subd. (c)(1)) and had served one prior prison term (§ 667.5, subd. (b)).

C. Plea Agreement and Sentencing

In April 2016 defendant entered into a plea agreement that resolved both cases. In case No. SS131057A, defendant pleaded no contest to count 1, possession of a firearm by a felon (§ 29800, subd. (a)(1)) in exchange for a sentence of two years concurrent with the sentence in case No. SS141657B.

In case No. SS141657B, the information was amended to add the charge of voluntary manslaughter (§ 192, subd. (a); count 6). Defendant pleaded no contest to count 6 and also to possession of a firearm by a felon (§ 29800, subd. (a)(1); count 2) and street terrorism (§ 186.22, subd. (a); count 4) and admitted all of the special allegations, in exchange for total term of 20 years 8 months.

In May 2016 the trial court imposed the agreed-upon sentences as follows. In case No. SS131057A, the trial court imposed the middle term of two years concurrent with the sentence in case No. SS141657B. In case No. SS141657B, the court imposed a total term of 20 years 8 months, which included 16 years on count 6; 2 years 4 months, consecutive, on count 2; and 2 years 4 months, consecutive, on count 4. The court also ordered defendant to pay various fines and fees and to register as a gang member pursuant to section 186.30.

III. WENDE ANALYSIS

Having carefully reviewed the entire record, we conclude that there are no arguable issues on appeal. (*Wende, supra*, 25 Cal.3d at pp. 441-443.)

IV. DISPOSITION

The judgment is affirmed.

BAMATTRE-MANOUKIAN, J.

WE CONCUR:

ELIA, ACTING P.J.

MIHARA, J.